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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,106	02/08/2002	John Walter Turgeon-Schramm	3616.199US01	2539

7590 05/02/2003

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EXAMINER

CHAN, KO HUNG

ART UNIT	PAPER NUMBER
3632	

DATE MAILED: 05/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/072,106	TURGEON-SCHRAMM ET AL.
	Examiner Korie H. Chan	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 February 2002.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-14 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, it is not clear whether or not applicant is claiming the elongated retaining member on the line before last.

### ***Claim Rejections - 35 USC § 102***

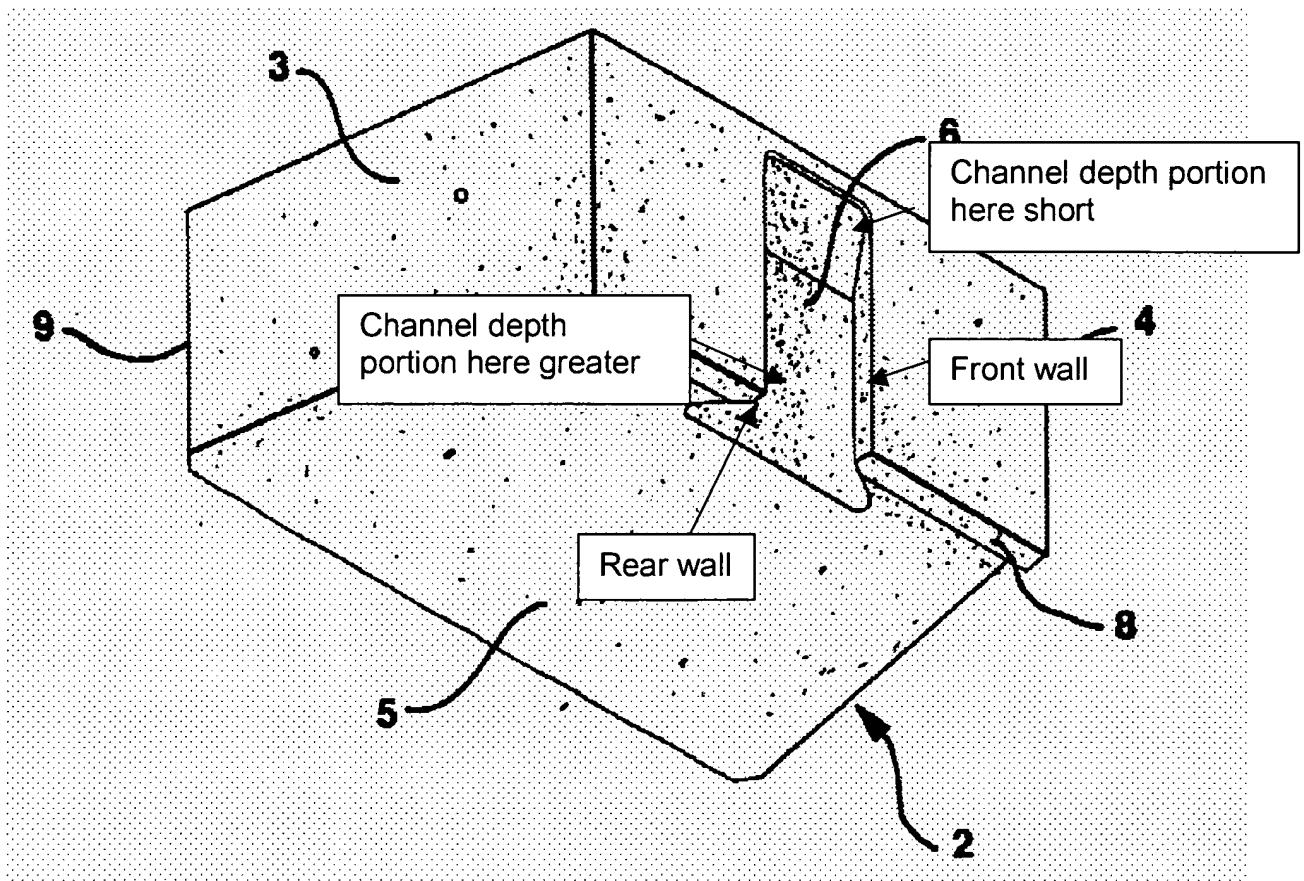
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

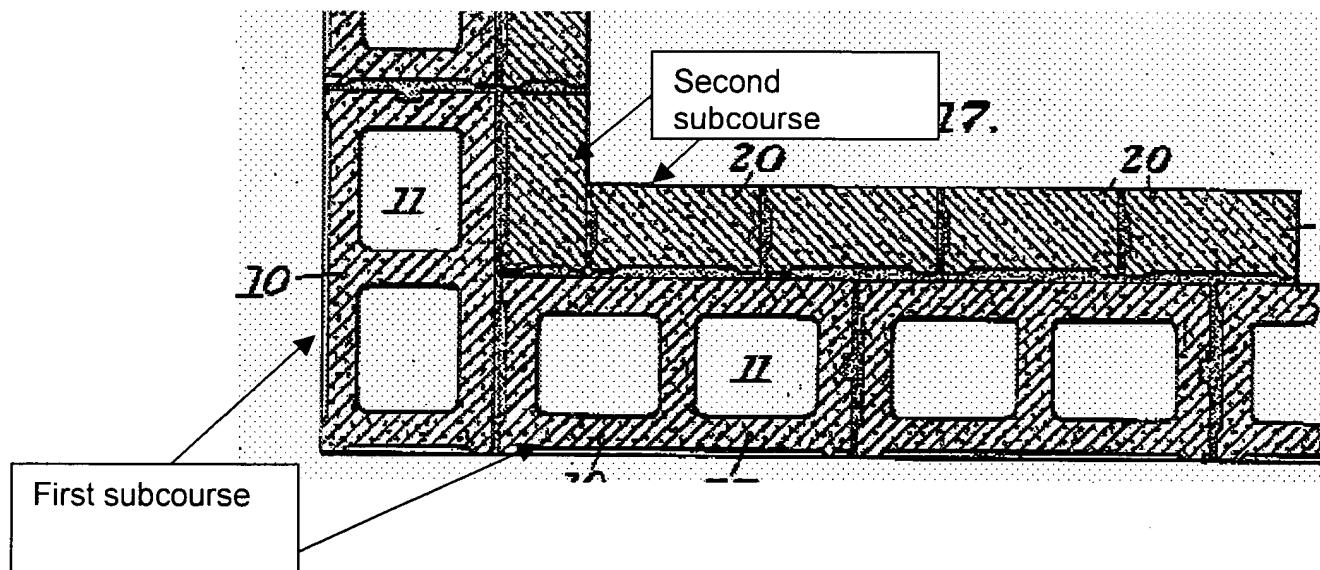
Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoedl et al (US patent no. 4,340,360). Hoedl et al discloses a block having channel (1) which includes a closed end and an open end extending through one of the end surfaces (3) of the block and wherein the front and rear walls (or side walls of the channel 1) diverge away from one another such that the channel increases in width from bottom to top; wherein the channel is sized to receiving an elongate retaining member (6); and wherein the six surfaces of the block are have at least a smooth texture.

Claims 1, 3, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Sorheim et al (US patent no. 5,820,304). Sorheim discloses a block having channel (6) on a top surface (4, note that you can rotate the block such that 4 is a top surface) which includes a closed end and an open end extending through one of the end surfaces (5) of the block and wherein the channel is sized to receiving an elongate retaining member (20); and wherein the six surfaces of the block are have a textured surface; wherein the channel has a portion with a depth adjacent the rear wall that is greater than a depth of another portion adjacent the front wall; and wherein a wall (figure 4) having an exterior corner with the corner blocks described.



Claims 6, 7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Campfield (US patent no. 2,226,369). Campfield'369 discloses a wall (figure 1) having plurality of blocks (10, 14 or 24) arranged into courses defining an exterior corner and at least one course formed of first and second subcourses (14 or 24 and adjacent two blocks 10) having the same height throughout the course.

Claims 6, 7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Henderson (US patent no. 2,151,468). Henderson discloses a wall (figure 22) having plurality of blocks (10) arranged into courses defining an exterior corner and at least one course formed of first and second subcourses (see illustration) having the same height throughout the course.



Claims 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Huffman (US patent no. 1,500,493). Huffman'493 discloses a wall (fig. 1) having plurality of blocks (1, 4) arranged into courses defining an exterior corner (figure 1) and each

course formed of first and second subcourses (1 and 5) having the same height throughout the course.

Claims 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Frantz (US patent no. 2,994,162). Franz discloses a wall (fig. 1) having plurality of courses each having a plurality of blocks (12) defining an exterior corner (12) and a secondary plurality of blocks (11) forming a wall portion adjacent the exterior corner, each block of first and second plurality of blocks include a channel (18) formed on a top surface thereof, a retaining bar (66) disposed within the channels in both the first and second plurality of blocks; wherein the channels of first and second plurality of blocks are aligned.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frantz'162 in view of Miller et al'460. Frantz disclosed all the claimed features of applicant's invention except for providing reinforcement material for a retaining wall. Miller teaches a retaining wall using reinforcement material (44) secured to the wall by the retaining bar (42) as a wall reinforcement. It would have been obvious to one of

ordinary skill in the art to use Frantz'162 wall construction as a retaining wall and to provide a reinforcement material therefore as taught by Miller for reinforcing the wall.

Claim 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frantz'162 in view of Henderson'468. Frantz disclosed all the claimed features of applicant's invention except for providing at least one course with first and second subcourses. Henderson teaches an exterior corner formed of a plurality of courses and the course having first and second subcourses as demonstrated above. It would have been obvious to one of ordinary skill in the art to provide subcourses to define the corner of Franz as taught by Henderson for reinforcement.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Les Braun can be reached on 703-308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Korie H. Chan  
Primary Examiner  
Art Unit 3632

khc  
April 28, 2003